

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICHARD BURT,

Plaintiff,

v.

MEGAN McCLELLAN, *et al.*,

Defendants.

3:08-CV-330-RCJ(RAM)

ORDER

Before the Court is the Report and Recommendation of the United States Magistrate Judge (#62) ("Recommendation") entered on August 26, 2009. This action was referred to U.S. Magistrate Robert A. McQuaid, Jr., pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. After a thorough review, the Magistrate Judge recommends that this Court enter an order granting Defendant McClellan's Motion for Summary Judgment (#42). No objection to the Report and Recommendation has been filed.

Additionally, before the Court is Plaintiff's Objections to Magistrate Judge's Report and Recommendation (#53) filed on July 10, 2009. Defendant's Opposition to Plaintiff's Objection to the Magistrate Judge's Report and Recommendation (#54) was filed on July 27, 2009.

I. DISCUSSION

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Further, under 28 U.S.C. § 636(b)(1), if a party makes a timely objection to the magistrate judge's recommendation, then this Court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made."¹ Nevertheless, the statute does not

¹ For an objection to be timely, a party must serve and file it within 10 days after being served with the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1)(C).

1 "require[] some lesser review by [this Court] when no objections are filed." Thomas v. Arn,
 2 474 U.S. 140, 149–50 (1985). Instead, under the statute, this Court is not required to conduct
 3 "any review at all . . . of any issue that is not the subject of an objection." Id. at 149. Similarly,
 4 the Ninth Circuit has recognized that a district court is not required to review a magistrate
 5 judge's report and recommendation where no objections have been filed. See United States
 6 v. Reyna-Tapia, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed
 7 by the district court when reviewing a report and recommendation to which no objections were
 8 made); see also Schmidt v. Johnstone, 263 F.Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading
 9 the Ninth Circuit's decision in Reyna-Tapia as adopting the view that district courts are not
 10 required to review "any issue that is not the subject of an objection."). Thus, if there is no
 11 objection to a magistrate judge's recommendation, then this Court may accept the
 12 recommendation without review. See e.g., Johnstone, 263 F.Supp. 2d at 1226 (accepting,
 13 without review, a magistrate judge's recommendation to which no objection was filed).

14 In this case, defendant has not filed an objection to the Magistrate Judge's Report and
 15 Recommendation. Although no objection was filed, this Court has reviewed the Report and
 16 Recommendation (#62), and accepts it. Accordingly,

17 **II. CONCLUSION**

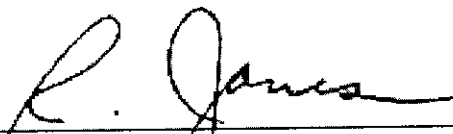
18 IT IS HEREBY ORDERED that Defendant McClellan's Motion for Summary Judgment
 19 (#42) is GRANTED.

20 IT IS FURTHER ORDERED that Plaintiff's Objections to Magistrate Judge's Report and
 21 Recommendation (#53) is DENIED as MOOT.

22 The Clerk of the Court shall enter judgment according.

23 IT IS SO ORDERED.

24 DATED: This 3 day of November, 2009.

25
 26
 27 
 28 Robert C. Jones
 UNITED STATES DISTRICT JUDGE